

AMENDED IN SENATE APRIL 27, 2010

AMENDED IN SENATE APRIL 15, 2010

AMENDED IN SENATE MARCH 25, 2010

**SENATE BILL**

**No. 837**

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**Introduced by Senator Florez**

January 5, 2010

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An act to amend Section 1985.3 of the Code of Civil Procedure, to amend Section 1326.1 of the Penal Code, and to add Sections 589, ~~779.3, 2750, 2750, and 2751~~, and 8364.5 to, to add the heading of Chapter 4.5 (commencing with Section 2750) to Part 2 of Division 1 of, ~~to add Chapter 10 (commencing with Section 5600) to Division 2 of~~, and to repeal the heading of Chapter 4.5 (commencing with Section 2771) of Part 2 of Division 1 of, the Public Utilities Code, relating to utility service.

LEGISLATIVE COUNSEL'S DIGEST

SB 837, as amended, Florez. Utility service: disconnection: smart meters: privacy.

~~(1) Under existing law, the Public Utilities Commission (CPUC) has regulatory authority over public utilities, including electrical corporations and gas corporations, as defined. Existing law authorizes the CPUC to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Existing law requires certain notice be given before an electrical, gas, heat, or water corporation may terminate residential service for nonpayment of a delinquent account and prohibits termination of service for nonpayment in certain circumstances.~~

~~This bill would require the CPUC to impose certain requirements on electrical corporations and gas corporations, and take other specified actions, with respect to reducing service disconnections.~~

~~(2)~~

(1) The federal Energy Independence and Security Act of 2007 states that it is the policy of the United States to maintain a reliable and secure electricity structure that achieves certain objectives that characterize a smart grid. Existing federal law requires each state regulatory authority, with respect to each electric utility for which it has ratemaking authority, and each nonregulated electric utility, to consider certain standards and to determine whether or not it is appropriate to implement those standards to carry out the purposes of the Public Utility Regulatory Policies Act. The existing standards include time-based metering and communications, consideration of smart grid investments, and providing purchases with smart grid information, as specified.

~~Existing~~

*Under existing law, the Public Utilities Commission (CPUC) has regulatory authority over public utilities, including electrical corporations and gas corporations, as defined. Existing law requires the CPUC, by July 1, 2010, and in consultation with the State Energy Resources Conservation and Development Commission, the Independent System Operator, and other key stakeholders, to determine the requirements for a smart grid deployment plan consistent with certain policies set forth in state and federal law. Existing law requires that the smart grid improve overall efficiency, reliability, and cost-effectiveness of electrical system operations, planning, and maintenance. Existing law requires each electrical corporation, by July 1, 2011, to develop and submit a smart grid deployment plan to the commission for approval.*

This bill would require the CPUC to ensure that each smart grid deployment plan *authorized by the CPUC after January 1, 2012*, include testing and technology standards, as specified, and ensure that each metering technology works properly in a field test in a real home setting.

~~(3)~~

(2) Existing law prescribes the circumstances under which telephone and telegraph corporations may release information regarding residential subscribers without their written consent. Existing law relative to restructuring of the electrical industry requires the commission to implement minimum standards relative to maintaining the confidentiality of residential and small commercial customer information by electric service providers.

~~This bill would provide that meter data collected by an electrical corporation or gas corporation is the property of the customer, regardless of whether the data is kept by the customer or retained solely by the utility, and would require that individual customer information, including energy usage, billing, and credit information, remain confidential unless the customer expressly authorizes, in writing, that the information may be released to a third party. The bill would require each electrical corporation and gas corporation that installs smart meters on customer residences to adopt and obtain the CPUC's approval of a statement of privacy and security principles for smart meter systems and a work plan to implement those principles. The bill would require the commission to adopt rules to ensure the safe transfer of electronic usage information and would authorize the commission to adopt other rules that the commission determines are necessary or useful to implement the bill's requirements.~~

~~The bill would provide that energy usage data in the possession of a 3rd-party demand response service provider, as defined, is the property of the electrical end-use customer regardless of whether that data is kept by the customer or retained solely by the service provider. The bill would prohibit individual electrical end-use customer information, as defined, in the custody of a 3rd-party demand response service provider from being provided to any other person or corporation by the service provider unless the customer expressly authorizes, in writing, that the information may be released to that person or corporation and that person or corporation acknowledges, in writing, that the information is confidential and may not be shared or utilized by any other person or corporation without the express written consent of the customer. The bill would require each 3rd-party demand response service provider to adopt a statement of privacy and security principles for the data to which it has access as a result of providing demand response services and a work plan to implement those principles. The bill would authorize the CPUC to adopt rules to ensure the privacy of individual electrical end-use customer information and would authorize the CPUC to exercise certain enforcement powers relative to these requirements and any rules that it adopts.~~

*This bill would prohibit an electrical corporation or gas corporation from sharing, selling, disclosing, or otherwise making accessible to any third party, without first obtaining the customer's express written consent, any personally identifiable information concerning a customer and, upon written request, to inform the customer of the identity of each*

*person or corporation to whom the information has been released. The bill would make a violation of these requirements grounds for a civil suit by the aggrieved customer against the utility and its employees responsible for the violation. The bill would require each electrical corporation and gas corporation to adopt a statement of privacy and security principles for the personally identifiable information of its customers and to file that statement with the CPUC, to post the statement on the utility's Internet Web site, to make the statement available to a customer, upon request, at no charge, and to disseminate the statement to customers. The bill would require that an electrical corporation or gas corporation ensure that any person, other than the customer or utility, including a contractor, equipment supplier, or software supplier of the utility, that is permitted to have access to customer information, is aware of the utility's statement of privacy and security principles and agrees, pursuant to contract, to act in a manner that is compatible with the statement of privacy and security principles.*

(4)

(3) This bill would require each ~~public utility~~ electrical corporation and gas corporation, on or before March 1, 2012, and each March 1 thereafter, to report to the Office of Privacy Protection, certain information relative to requests for customer's utility records pursuant to federal warrants, state warrants, grand jury subpoenas, civil subpoenas, and administrative subpoenas. The bill would require that the reports be made available to the public via the Internet.

(5)

(4) Existing law relative to civil discovery requires that a subpoena duces tecum for personal records pertaining to a consumer be served upon the consumer along with a specified affidavit. Personal records are defined for this purpose to include the records of a telephone corporation.

This bill would expand the definition of personal records to include records of an electrical corporation, gas corporation, ~~publicly owned gas utility~~, or local publicly owned electric utility.

(6)

(5) Existing law provides that a judge may order the production of utility records, as defined, only if certain conditions are met. Existing law does not preclude the holder of the utility records from notifying a customer of the receipt of the order for production unless a court orders otherwise.

This bill would instead require a holder of utility records to notify a customer of the receipt of the order for production unless a court orders otherwise.

(7)

(6) Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because certain of the bill's provisions would be within the act and because the bill would require action by the commission to implement certain of its requirements, a violation of these provisions would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. (a) Information concerning a utility customer's  
2     energy usage ~~belongs to the customer and~~ should be treated as  
3     confidential by electrical corporations and gas corporations, and  
4     the Legislature finds and declares that this right of privacy needs  
5     further protection in light of the detailed information on household  
6     energy usage that will be available to electrical corporations and  
7     gas corporations after the statewide deployment of smart meter  
8     technology. If electrical corporations begin to provide other  
9     services over wholly owned medium, including broadband over  
10    powerline service, privacy protections need to apply to these  
11    services.

12    (b) It is the intent of the Legislature that the protections added  
13    by Section 2750 of the Public Utilities Code are in addition to  
14    those protections afforded customers pursuant to Section 394.4 of  
15    the Public Utilities Code.

16    (c) It is the further intent of the Legislature to enact additional  
17    protections to preserve the confidentiality of household energy  
18    usage information and prevent its access and use by third parties  
19    that provide equipment or software associated with deployment

1 and operation of the smart grid. A customer has a reasonable  
2 expectation of privacy with respect to their occupancy, movement,  
3 habits, or any other activity in their home that otherwise would  
4 not be visible from outside. Smart appliance systems for the home  
5 should protect a customer's reasonable expectation of privacy in  
6 his or her activities and preferences, and the customer's right to  
7 control the use of *energy usage* data collected from in-home smart  
8 appliances, in-home sensors, or smart meters, should be protected  
9 by limiting a utility's and other business processor's use of the  
10 *energy usage* data, and limiting access and use by government and  
11 private parties.

12 ~~(d) The Legislature finds that granting the Public Utilities~~  
13 ~~Commission authority to adopt and enforce rules to ensure~~  
14 ~~customer privacy with respect to energy usage information~~  
15 ~~collected as a result of smart meter systems, and to adopt~~  
16 ~~requirements for network security, are cognate and germane to the~~  
17 ~~commission's regulation of electrical corporations and gas~~  
18 ~~corporations.~~

19 (e)

20 (d) Detailed and real-time consumption data held by, or  
21 accessible to, electrical corporations, gas corporations, or third  
22 parties should be available to law enforcement only with a warrant  
23 or in those circumstances when a warrant is unnecessary to conduct  
24 a search of a residence.

25 SEC. 2. Section 1985.3 of the Code of Civil Procedure is  
26 amended to read:

27 1985.3. (a) For purposes of this section, the following  
28 definitions apply:

29 (1) "Personal records" means the original, any copy of books,  
30 documents, other writings, or electronic data pertaining to a  
31 consumer and which are maintained by any "witness" that is a  
32 physician, dentist, ophthalmologist, optometrist, chiropractor,  
33 physical therapist, acupuncturist, podiatrist, veterinarian, veterinary  
34 hospital, veterinary clinic, pharmacist, pharmacy, hospital, medical  
35 center, clinic, radiology or MRI center, clinical or diagnostic  
36 laboratory, state or national bank, state or federal association (as  
37 defined in Section 5102 of the Financial Code), state or federal  
38 credit union, trust company, anyone authorized by this state to  
39 make or arrange loans that are secured by real property, security  
40 brokerage firm, insurance company, title insurance company,

1 underwritten title company, escrow agent licensed pursuant to  
2 Division 6 (commencing with Section 17000) of the Financial  
3 Code or exempt from licensure pursuant to Section 17006 of the  
4 Financial Code, attorney, accountant, institution of the Farm Credit  
5 System, as specified in Section 2002 of Title 12 of the United  
6 States Code, an electrical corporation, gas corporation, or telephone  
7 corporation that is a public utility, as defined in Section 216 of the  
8 Public Utilities Code, ~~or a publicly owned gas utility~~, or a local  
9 publicly owned electric utility, as defined in Section 224.3 of the  
10 Public Utilities Code, or psychotherapist, as defined in Section  
11 1010 of the Evidence Code, or a private or public preschool,  
12 elementary school, secondary school, or postsecondary school as  
13 described in Section 76244 of the Education Code.

14 (2) “Consumer” means any individual, partnership of five or  
15 fewer persons, association, or trust which has transacted business  
16 with, or has used the services of, the witness or for whom the  
17 witness has acted as agent or fiduciary.

18 (3) “Subpoenaing party” means the person or persons causing  
19 a subpoena duces tecum to be issued or served in connection with  
20 any civil action or proceeding pursuant to this code, but shall not  
21 include the state or local agencies described in Section 7465 of  
22 the Government Code, or any entity provided for under Article VI  
23 of the California Constitution in any proceeding maintained before  
24 an adjudicative body of that entity pursuant to Chapter 4  
25 (commencing with Section 6000) of Division 3 of the Business  
26 and Professions Code.

27 (4) “Deposition officer” means a person who meets the  
28 qualifications specified in Section 2020.420.

29 (b) Prior to the date called for in the subpoena duces tecum for  
30 the production of personal records, the subpoenaing party shall  
31 serve or cause to be served on the consumer whose records are  
32 being sought a copy of the subpoena duces tecum, of the affidavit  
33 supporting the issuance of the subpoena, if any, and of the notice  
34 described in subdivision (e), and proof of service as indicated in  
35 paragraph (1) of subdivision (c). This service shall be made as  
36 follows:

37 (1) To the consumer personally, or at his or her last known  
38 address, or in accordance with Chapter 5 (commencing with  
39 Section 1010) of Title 14 of Part 3, or, if he or she is a party, to  
40 his or her attorney of record. If the consumer is a minor, service

1 shall be made on the minor's parent, guardian, conservator, or  
2 similar fiduciary, or if one of them cannot be located with  
3 reasonable diligence, then service shall be made on any person  
4 having the care or control of the minor or with whom the minor  
5 resides or by whom the minor is employed, and on the minor if  
6 the minor is at least 12 years of age.

7 (2) Not less than 10 days prior to the date for production  
8 specified in the subpoena duces tecum, plus the additional time  
9 provided by Section 1013 if service is by mail.

10 (3) At least five days prior to service upon the custodian of the  
11 records, plus the additional time provided by Section 1013 if  
12 service is by mail.

13 (c) Prior to the production of the records, the subpoenaing party  
14 shall do either of the following:

15 (1) Serve or cause to be served upon the witness a proof of  
16 personal service or of service by mail attesting to compliance with  
17 subdivision (b).

18 (2) Furnish the witness a written authorization to release the  
19 records signed by the consumer or by his or her attorney of record.  
20 The witness may presume that any attorney purporting to sign the  
21 authorization on behalf of the consumer acted with the consent of  
22 the consumer, and that any objection to release of records is  
23 waived.

24 (d) A subpoena duces tecum for the production of personal  
25 records shall be served in sufficient time to allow the witness a  
26 reasonable time, as provided in Section 2020.410, to locate and  
27 produce the records or copies thereof.

28 (e) Every copy of the subpoena duces tecum and affidavit, if  
29 any, served on a consumer or his or her attorney in accordance  
30 with subdivision (b) shall be accompanied by a notice, in a typeface  
31 designed to call attention to the notice, indicating that (1) records  
32 about the consumer are being sought from the witness named on  
33 the subpoena; (2) if the consumer objects to the witness furnishing  
34 the records to the party seeking the records, the consumer must  
35 file papers with the court or serve a written objection as provided  
36 in subdivision (g) prior to the date specified for production on the  
37 subpoena; and (3) if the party who is seeking the records will not  
38 agree in writing to cancel or limit the subpoena, an attorney should  
39 be consulted about the consumer's interest in protecting his or her  
40 rights of privacy. If a notice of taking of deposition is also served,

1 that other notice may be set forth in a single document with the  
2 notice required by this subdivision.

3 (f) A subpoena duces tecum for personal records maintained by  
4 a telephone corporation~~which~~ *that* is a public utility, as defined  
5 in Section 216 of the Public Utilities Code, shall not be valid or  
6 effective unless it includes a consent to release, signed by the  
7 consumer whose records are requested, as required by Section  
8 2891 of the Public Utilities Code.

9 (g) Any consumer whose personal records are sought by a  
10 subpoena duces tecum and who is a party to the civil action in  
11 which this subpoena duces tecum is served may, prior to the date  
12 for production, bring a motion under Section 1987.1 to quash or  
13 modify the subpoena duces tecum. Notice of the bringing of that  
14 motion shall be given to the witness and deposition officer at least  
15 five days prior to production. The failure to provide notice to the  
16 deposition officer shall not invalidate the motion to quash or  
17 modify the subpoena duces tecum but may be raised by the  
18 deposition officer as an affirmative defense in any action for  
19 liability for improper release of records.

20 Any other consumer or nonparty whose personal records are  
21 sought by a subpoena duces tecum may, prior to the date of  
22 production, serve on the subpoenaing party, the witness, and the  
23 deposition officer, a written objection that cites the specific grounds  
24 on which production of the personal records should be prohibited.

25 A witness or deposition officer shall not be required to produce  
26 personal records after receipt of notice that the motion has been  
27 brought by a consumer, or after receipt of a written objection from  
28 a nonparty consumer, except upon order of the court in which the  
29 action is pending or by agreement of the parties, witnesses, and  
30 consumers affected.

31 The party requesting a consumer's personal records may bring  
32 a motion under Section 1987.1 to enforce the subpoena within 20  
33 days of service of the written objection. The motion shall be  
34 accompanied by a declaration showing a reasonable and good faith  
35 attempt at informal resolution of the dispute between the party  
36 requesting the personal records and the consumer or the consumer's  
37 attorney.

38 (h) Upon good cause shown and provided that the rights of  
39 witnesses and consumers are preserved, a subpoenaing party shall  
40 be entitled to obtain an order shortening the time for service of a

1 subpoena duces tecum or waiving the requirements of subdivision  
2 (b) where due diligence by the subpoenaing party has been shown.

3 (i) This section shall not be construed to apply to any subpoena  
4 duces tecum that does not request the records of any particular  
5 consumer or consumers and that requires a custodian of records  
6 to delete all information that would in any way identify any  
7 consumer whose records are to be produced.

8 (j) This section shall not apply to proceedings conducted under  
9 Division 1 (commencing with Section 50), Division 4 (commencing  
10 with Section 3200), Division 4.5 (commencing with Section 6100),  
11 or Division 4.7 (commencing with Section 6200), of the Labor  
12 Code.

13 (k) Failure to comply with this section shall be sufficient basis  
14 for the witness to refuse to produce the personal records sought  
15 by a subpoena duces tecum.

16 (l) If the subpoenaing party is the consumer, and the consumer  
17 is the only subject of the subpoenaed records, notice to the  
18 consumer, and delivery of the other documents specified in  
19 subdivision (b) to the consumer, is not required under this section.

20 SEC. 3. Section 1326.1 of the Penal Code is amended to read:

21 1326.1. (a) An order for the production of utility records in  
22 whatever form and however stored shall be issued by a judge only  
23 upon a written ex parte application by a peace officer showing  
24 specific and articulable facts that there are reasonable grounds to  
25 believe that the records or information sought are relevant and  
26 material to an ongoing investigation of a felony violation of Section  
27 186.10 or of any felony subject to the enhancement set forth in  
28 Section 186.11. The ex parte application shall specify with  
29 particularity the records to be produced, which shall be only those  
30 of the individual or individuals who are the subject of the criminal  
31 investigation. The ex parte application and any subsequent judicial  
32 order shall be open to the public as a judicial record unless ordered  
33 sealed by the court, for a period of 60 days. The sealing of these  
34 records may be extended for 60-day periods upon a showing to  
35 the court that it is necessary for the continuance of the  
36 investigation. Sixty-day extensions may continue for up to one  
37 year or until termination of the investigation of the individual or  
38 individuals, whichever is sooner. The records ordered to be  
39 produced shall be returned to the peace officer applicant or his or

1 her designee within a reasonable time period after service of the  
2 order upon the holder of the utility records.

3 (b) As used in subdivision (a), “utility records” include, but are  
4 not limited to, subscriber information, telephone or pager number  
5 information, toll call records, call detail records, automated  
6 message accounting records, billing statements, payment records,  
7 and applications for service in the custody of companies engaged  
8 in the business of providing telephone, pager, electric, gas, propane,  
9 water, or other like services. “Utility records” do not include the  
10 installation of, or the data collected from the installation of pen  
11 registers or trap-tracers, nor the contents of a wire or electronic  
12 communication.

13 (c) The holder of the utility records shall notify a customer of  
14 the receipt of the order for production of records unless a court  
15 orders the holder of the utility records to withhold notification to  
16 the customer upon a finding that this notice would impede the  
17 investigation. Where a court has made an order to withhold  
18 notification to the customer under this subdivision, the order shall  
19 include a statement of the facts as to why providing notice would  
20 impede the investigation and the peace officer or law enforcement  
21 agency who obtained the utility records shall notify the customer  
22 by delivering a copy of the ex parte order to the customer within  
23 10 days of the termination of the investigation.

24 (d) A holder of utility records, or an officer, employee, or agent  
25 thereof, shall not be liable to any person for ~~(A)~~ (1) disclosing  
26 information in response to an order pursuant to this section, or ~~(B)~~  
27 (2) complying with an order under this section not to disclose to  
28 the customer, the order or the dissemination of information  
29 pursuant to the order.

30 (e) This section shall not preclude the holder of the utility  
31 records from voluntarily disclosing information or providing  
32 records to law enforcement upon request.

33 (f) Utility records released pursuant to this section shall be used  
34 only for the purpose of criminal investigations and prosecutions.

35 SEC. 4. Section 589 is added to the Public Utilities Code, to  
36 read:

37 589. (a) On or before March 1, 2012, and each March 1  
38 thereafter, each ~~public utility~~ *electrical corporation and gas*  
39 *corporation* shall report all of the following to the Office of Privacy

1 Protection created pursuant to Section 11549.5 of the Government  
2 Code:

3 (1) The number of federal warrants, state warrants, grand jury  
4 subpoenas, civil subpoenas, and administrative subpoenas received  
5 by the utility during the prior calendar year for information  
6 pertaining to a California consumer of the utility's services.

7 (2) The number and types of actions taken by the utility in  
8 response to each category of information request listed in paragraph  
9 (1).

10 (3) The number of customers whose utility records were  
11 produced in response to each category of information request listed  
12 in paragraph (1).

13 (4) The type of information disclosed about the utility's  
14 customers in response to each category of information request  
15 listed in paragraph (1).

16 (5) The total amount of money received by the utility to respond  
17 to each category of information request in paragraph (1).

18 (b) Information need not be disclosed pursuant to subdivision  
19 (a) where prohibited by some other law. If the utility does not  
20 disclose information pursuant to this subdivision, it shall include  
21 a statement in the report as to the basis for the withholding of that  
22 information.

23 (c) On or before June 1, 2012, and each June 1 thereafter, each  
24 public utility shall make the report prepared pursuant to subdivision  
25 (a) available on the utility's Internet Web site and shall provide  
26 an electronic version of the report to the Office of Privacy  
27 Protection.

28 (d) On or before July 1, 2012, and each July 1 thereafter, the  
29 Office of Privacy Protection shall make a copy of each utility report  
30 furnished to the office pursuant to this section available on the  
31 office's Internet Web site in a manner that will allow the public  
32 to conduct online searches for information contained in the reports.

33 ~~SEC. 5. Section 779.3 is added to the Public Utilities Code, to~~  
34 ~~read:~~

35 ~~779.3. (a) The Legislature finds and declares all of the~~  
36 ~~following:~~

37 ~~(1) The Division of Ratepayer Advocates is an independent~~  
38 ~~organization within the Public Utilities Commission that represents~~  
39 ~~consumers' interests on utility matters, with the statutory mission~~

1 to obtain the lowest possible rates for utility services consistent  
2 with safe and reliable service levels.

3 (2) In November 2009, the division released its report entitled  
4 “Status of Energy Utility Service Disconnections in California,”  
5 which evaluated energy utility disconnection data comparing the  
6 12 months of September 2008 through August 2009, to prior years,  
7 back to January 2006, and compared California trends to national  
8 trends.

9 (3) That data evaluated by the division showed the following:

10 (A) Disconnections of low-income customers during the period  
11 September 2008 through August 2009 were 19 percent higher than  
12 the past year, with the largest increase for Pacific Gas and Electric  
13 Company’s customers.

14 (B) Disconnections of non-low-income customers have  
15 decreased, except in Pacific Gas and Electric Company’s service  
16 territory.

17 (C) While low-income customers have traditionally suffered  
18 more disconnections than non-low-income customers, the recent  
19 disparity is the worst in three years.

20 (D) A large number of customers, particularly low-income  
21 customers, go through the disconnect-reconnect cycle.

22 (E) Energy utility workforce constraints have limited  
23 disconnections to a fraction of those customers failing to pay after  
24 receiving final disconnect notices, but the remote disconnection  
25 functionality of smart meters will lift this constraint.

26 (4) Increasing service disconnections during the current  
27 economic downturn exacerbate the hardship that likely led to the  
28 service disconnection in the first place, and since most disconnected  
29 customers, within hours or days of disconnection, pay their utility  
30 bills in order to be reconnected, the division questions whether  
31 those disconnections are preventable.

32 (5) It is the intent of the Legislature to enact legislation  
33 implementing the recommendations of the Division of Ratepayer  
34 Advocates to reduce those disconnections that are preventable  
35 along with additional protective measures.

36 (b) The commission shall require electrical corporations and  
37 gas corporations to implement specific strategies that compel  
38 customer payment prior to, rather than after service disconnection,  
39 with the goal of eliminating all avoidable disconnections. In

1 ~~implementing this requirement, the commission shall consider~~  
2 ~~requiring electrical and gas corporations to do all of the following:~~

3 ~~(1) Offer autopay to all customers, and provide incentives for~~  
4 ~~signing up for autopay or for fulfilling commitments to payment~~  
5 ~~plans.~~

6 ~~(2) Offer customers the ability to receive disconnect notices via~~  
7 ~~a preferred method that is most likely to get their attention,~~  
8 ~~including telephone calls, e-mails, text messaging, a home~~  
9 ~~electricity monitoring device or other network device, and~~  
10 ~~third-party notification.~~

11 ~~(3) Provide additional messages in late payment and disconnect~~  
12 ~~notices that constructively alert customers of the options the~~  
13 ~~utilities may offer and provide the list of costs, both direct and~~  
14 ~~indirect, the customers may face when service is disconnected.~~

15 ~~(4) Engage in proactive offers regarding the variety of assistance~~  
16 ~~programs before disconnection takes place.~~

17 ~~(5) Increase in-person contacts before disconnection.~~

18 ~~(6) Create an arrearage management program.~~

19 ~~(7) Give priority installation of programmable communicating~~  
20 ~~thermostats to customers who are at risk for disconnection so that~~  
21 ~~they can better manage their usage and load.~~

22 ~~(e) The commission shall require electrical corporations and~~  
23 ~~gas corporations to reduce the disconnection rates for low-income~~  
24 ~~customers, including customers participating in the California~~  
25 ~~Alternate Rates for Energy program, so that they are in line with~~  
26 ~~the disconnection rates of those customers that are not low-income~~  
27 ~~customers.~~

28 ~~(d) The commission shall ensure that electric and gas service~~  
29 ~~disconnections remain at, or below, historical levels regardless of~~  
30 ~~whether remote disconnections utilizing Advanced Metering~~  
31 ~~Infrastructure technology, known as AMI or smart meters, are~~  
32 ~~implemented. In implementing this requirement, the commission~~  
33 ~~shall consider requiring electrical corporations and gas corporations~~  
34 ~~to do all of the following:~~

35 ~~(1) Benchmark disconnection rates in order to facilitate the~~  
36 ~~program.~~

37 ~~(2) Randomly survey customers eligible for disconnection during~~  
38 ~~customer interactions to identify the most effective means of~~  
39 ~~helping them avoid future disconnections.~~

40 ~~(3) Share best practices on an ongoing basis.~~

1     ~~(4) Maintain the personal contact associated with in-person~~  
2     ~~disconnections for a transition period until all of the following~~  
3     ~~occur:~~

4     ~~(A) Any initial problems with smart meters are addressed.~~

5     ~~(B) Status reports are filed with the commission that identify~~  
6     ~~smart meter remote disconnection issues and present solutions~~  
7     ~~used to mitigate these issues.~~

8     ~~(C) Ratepayers have been informed about new disconnection~~  
9     ~~processes.~~

10    ~~(D) Alternatives that can be deployed to the in-person service~~  
11    ~~associated with disconnections are created, including disconnection~~  
12    ~~hotlines with live agents available to respond to customer problems~~  
13    ~~associated with disconnections, and increasing the number of local~~  
14    ~~payment centers.~~

15    ~~(e) The commission shall require safeguards to protect against~~  
16    ~~negative health and public safety consequences of remote~~  
17    ~~disconnections of electric and gas service once smart meters are~~  
18    ~~installed. In implementing this requirement, the commission shall~~  
19    ~~consider requiring electrical corporations and gas corporations to~~  
20    ~~do both of the following:~~

21    ~~(1) Add a process that enables consumers to obtain temporary~~  
22    ~~service reinstatements for 10 days once they initiate an~~  
23    ~~investigation or request for repayment assistance, to be available~~  
24    ~~only once a year to avoid abuse.~~

25    ~~(2) Provide additional notice regarding the procedure for service~~  
26    ~~reinstatement, including notice regarding temporary reinstatement.~~

27    ~~SEC. 6. Section 2750 is added to the Public Utilities Code, to~~  
28    ~~read:~~

29    ~~2750.—(a) For purposes of this section, an authorization,~~  
30    ~~acknowledgment, or consent is written or in writing if made by an~~  
31    ~~“electronic record” that includes a “digital signature,” as those~~  
32    ~~terms are defined in Section 1633 of the Civil Code.~~

33    ~~(b) The meter data collected by an electrical corporation or gas~~  
34    ~~corporation is the property of the customer, regardless of whether~~  
35    ~~the data is kept by the customer or retained solely by the utility.~~

36    ~~(c) Individual customer information shall remain confidential.~~  
37    ~~For purposes of this section, “individual customer information”~~  
38    ~~includes both of the following:~~

39    ~~(1) Energy usage information about an individual, family,~~  
40    ~~household, or residence.~~

~~(2) Billing and credit information about an individual, family, household, or residence.~~

~~(d) (1) Individual customer information in the custody of an electrical corporation or gas corporation shall not be shared, sold, disclosed, or otherwise made accessible to a third party unless the customer expressly authorizes, in writing, the release of that information to that third party and the third party acknowledges, in writing, that the information is confidential and shall not be shared, sold, disclosed, made accessible, or utilized by any other person, corporation, or other entity without the express written consent of the customer.~~

~~(2) A customer may authorize the release of prior bills or usage records by the utility, but the customer or the third party shall pay any reasonable administrative cost incurred by the utility in complying with the release.~~

~~(3) A written authorization by a customer for the release of confidential information shall automatically terminate after the passage of three years from the date of the written authorization and any renewal shall be in writing.~~

~~(4) An electrical corporation, gas corporation, or third party shall not offer or provide any incentive, discount, or other inducement with a monetary value, to a customer to obtain the customer's authorization to release information pursuant to this subdivision.~~

~~(e) (1) Each electrical corporation and gas corporation implementing smart meter technology, by July 1, 2011, or within six months of the installation of smart meters on customer residences, shall adopt a statement of privacy and security principles for smart meter systems. Each electrical corporation and gas corporation implementing smart meter technology shall file the statement of principles with the commission. The commission shall approve, or modify and approve, the statement of principles. The statement of principles shall include the following elements:~~

~~(A) A customer has a right to transparency in information gathering and use. The utility shall provide customers with meaningful, clear, and full notice regarding the collection, use, dissemination, and maintenance of individual customer information gathered as a result of the smart meter system.~~

1     ~~(B) A customer has a right to participate in what and how~~  
2 ~~information about the customer is collected and used. The utility~~  
3 ~~shall employ a process when using individual customer information~~  
4 ~~gathered as a result of the smart meter system that seeks the~~  
5 ~~customer's consent for the collection, use, dissemination, and~~  
6 ~~maintenance of the information. The utility shall provide~~  
7 ~~mechanisms for customers to access, correct, and seek redress~~  
8 ~~regarding their individual customer information gathered as a result~~  
9 ~~of the smart meter system.~~

10    ~~(C) A customer has a right to know each reason information is~~  
11 ~~being gathered. The utility shall articulate and communicate with~~  
12 ~~specificity to the customer each purpose for which individual~~  
13 ~~customer information is being gathered through use of the smart~~  
14 ~~meter system.~~

15    ~~(D) Maintenance of information shall be minimized. The utility~~  
16 ~~shall collect or retain only that individual customer information~~  
17 ~~that is directly relevant and necessary to accomplish a purpose~~  
18 ~~specified in subparagraph (C). Individual customer information~~  
19 ~~shall only be retained for as long as necessary to fulfill the specified~~  
20 ~~purpose.~~

21    ~~(E) Information shall be used only for the purposes for which~~  
22 ~~it was gathered. Individual customer information shall be used~~  
23 ~~solely for the purposes for which it was collected and may be~~  
24 ~~shared only for purposes that are compatible with the purposes for~~  
25 ~~which it was gathered.~~

26    ~~(F) The utility shall maintain the quality and integrity of~~  
27 ~~information. The utility, to the extent practicable, shall ensure that~~  
28 ~~all individual customer information is accurate, relevant, timely,~~  
29 ~~and complete. The utility shall provide a mechanism for customers~~  
30 ~~to easily and confidentially access and view their information and~~  
31 ~~a means to report errors. The utility shall correct erroneous~~  
32 ~~information that is challenged by the consumer.~~

33    ~~(G) The utility shall maintain the security of the information~~  
34 ~~gathering system. The utility shall protect individual customer~~  
35 ~~information through appropriate security safeguards against risks~~  
36 ~~of loss, unauthorized access or use, destruction, modification, or~~  
37 ~~unintended or inappropriate disclosure, and the smart grid~~  
38 ~~technology employed by the utility shall be capable of~~  
39 ~~implementing these security safeguards.~~

~~(H) The utility shall undertake reasonable auditing to verify compliance with the utility's statement of principles. The utility shall be responsible for ensuring compliance with its statement of privacy and security principles for smart meter systems and, to that end, shall undertake appropriate training of its employees and contractors and audit the individual customer information being gathered and maintained and the dissemination of that information.~~

~~(2) No later than six months following the commission's approval of the statement of privacy and security principles for smart meter systems, the electrical corporation or gas corporation shall adopt a work plan for implementation of the statement of principles. The electrical corporation or gas corporation shall file the work plan with the commission. The commission shall approve, or modify and approve, the work plan. Information in the work plan that might be detrimental to the security of the smart meter system shall be filed in a manner that preserves the confidentiality of the information.~~

~~(3) Upon approval of the statement of privacy and security principles for smart meter systems and the work plan, the utility shall make the statement of principles and the work plan available on the utility's Internet Web site. Information that might be detrimental to the security of the smart meter system shall be omitted from the information made available on the Internet Web site. The utility's Internet Web site shall provide a mechanism for customers to make inquiries about, or comment upon, the statement of principles and work plan.~~

~~(4) An electrical corporation or gas corporation shall ensure that any person, other than the customer, or corporation that is permitted to have access to the smart grid system, including a contractor, equipment supplier, or software supplier of the utility, is aware of the utility's statement of privacy and security principles for smart meter systems and the work plan, and agrees to follow the requirements of the work plan and act in a manner that is compatible with the statement of principles.~~

~~(5) An electrical corporation or gas corporation shall promptly notify the commission of any violation of the work plan by any employee of the utility or any person or corporation that is permitted to have access to the smart grid system.~~

~~(6) The commission may exercise its authority pursuant to Sections 2111 and 2113 to enforce the requirements of the work~~

1 ~~plan with respect to any person or corporation that is not an~~  
2 ~~electrical corporation or gas corporation.~~

3 ~~(f) The commission shall adopt rules to ensure the safe transfer~~  
4 ~~of electronic usage information and may adopt other rules that the~~  
5 ~~commission determines are necessary or useful to implement the~~  
6 ~~requirements of this section. The commission shall approve a~~  
7 ~~reasonable charge that may be collected by an electrical corporation~~  
8 ~~or gas corporation for providing historical information pursuant~~  
9 ~~to paragraph (2) of subdivision (c).~~

10 ~~(g) This section does not limit the ability of a customer to~~  
11 ~~directly and voluntarily provide confidential information to a third~~  
12 ~~party. An electrical corporation or gas corporation shall provide a~~  
13 ~~customer, the customer's electric service provider, the customer's~~  
14 ~~third-party demand response service provider, or other third-party~~  
15 ~~entity authorized by the customer, with read-only access to the~~  
16 ~~customers' smart meter data, including meter data used to calculate~~  
17 ~~charges for electric service and historical load data. The access~~  
18 ~~shall be convenient and secure, and the data shall be made available~~  
19 ~~no later than the next day of service. An authorization shall be~~  
20 ~~made in writing.~~

21 ~~(h) (1) This section does not limit the authority of the~~  
22 ~~commission, subject to Section 583, or the Energy Commission,~~  
23 ~~to require an electrical corporation or gas corporation to provide,~~  
24 ~~for authorized purposes, composite statistical information derived~~  
25 ~~from individual customer information that does not disclose~~  
26 ~~individual customer data.~~

27 ~~(2) The commission may approve the sharing of information~~  
28 ~~with a third-party demand response service provider pursuant to~~  
29 ~~subdivision (f) of Section 5601.~~

30 ~~(3) The commission may authorize the sharing of information~~  
31 ~~with academic or other researchers retained to evaluate system~~  
32 ~~reliability, vulnerability, security, or other authorized research~~  
33 ~~topics, provided that the results of the research publicly disclose~~  
34 ~~only composite statistical information derived from individual~~  
35 ~~customer information that does not disclose individual customer~~  
36 ~~data. The commission may condition the sharing of information~~  
37 ~~by an electrical corporation or gas corporation upon the removal~~  
38 ~~of individual identifying information and characteristics. The~~  
39 ~~commission shall ensure that academic or other researchers have~~  
40 ~~obtained approval from their institutional review board to use the~~

~~1 requested data. The commission shall require each electrical  
2 corporation and gas corporation to adopt a mechanism for academic  
3 or other researchers to confidentially report suspected system  
4 vulnerabilities that they have found in their research and testing.  
5 The commission shall require each electrical corporation and gas  
6 corporation to adopt a mechanism for members of the public to  
7 anonymously report system vulnerabilities.~~

~~8 (i) The commission may exercise its enforcement authority  
9 pursuant to Chapter 11 (commencing with section 2100) of Part  
10 1 with respect to an electrical corporation or gas corporation to  
11 enforce the requirements of this section.~~

*SEC. 5. Section 2750 is added to the Public Utilities Code, to read:*

*2750. (a) An electrical corporation or gas corporation shall not share, sell, disclose, or otherwise make accessible to any third party, without first obtaining the customer's express written consent, any personally identifiable information concerning a customer including, but not limited to, the following:*

*(1) The customer's personal billing or credit information, or electrical or gas usage data.*

*(2) The customer's credit or other personal financial information, except when the corporation is ordered by the commission to provide this information.*

*(3) The services that the customer purchases, enrolls in, or subscribes to, from the utility or from independent services that use the electrical or gas consumption data to provide a related service to the customer.*

*(4) Demographic information about individual customers, or aggregate information from which individual identities and characteristics have not been removed.*

*(b) A customer who gives his or her written consent for the release of one or more of the categories of personally identifiable information in subdivision (a) shall be informed by the electrical corporation or gas corporation of the identity of each person or corporation to whom the information has been released, upon written request.*

*(c) (1) A customer who, pursuant to subdivision (b), has given written consent for the release of one or more of the categories of personally identifiable information in subdivision (a), may rescind*

1 *this consent upon submission of a written notice to the electrical*  
2 *corporation or gas corporation.*

3 *(2) An electrical corporation or gas corporation shall cease to*  
4 *make available any personal information about the customer,*  
5 *within 30 days following receipt of notice pursuant to paragraph*  
6 *(1).*

7 *(3) If a customer voluntarily terminates service with an electrical*  
8 *corporation or gas corporation, any prior consent for the release*  
9 *of personally identifiable information shall also terminate.*

10 *(d) This section does not apply to any of the following:*

11 *(1) General information regarding the usage, load shape, or*  
12 *other characteristics of a group or rate classification, unless the*  
13 *release of that information would reveal customer specific*  
14 *information because of the size of the group, rate classification,*  
15 *or nature of the information.*

16 *(2) Information provided under supervision of the commission*  
17 *to a collection agency by the electrical corporation or gas*  
18 *corporation exclusively for the collection of unpaid debts.*

19 *(3) Information provided to an emergency service agency*  
20 *responding to a 911 telephone call or any other call communicating*  
21 *an imminent threat to life or property.*

22 *(4) Information provided to a law enforcement agency in*  
23 *response to lawful process.*

24 *(5) Information that is required by the commission pursuant to*  
25 *its jurisdiction and control over electrical corporations and gas*  
26 *corporations.*

27 *(6) Information required to be provided by the electrical*  
28 *corporation or gas corporation pursuant to rules and orders of*  
29 *the commission or the Federal Energy Regulatory Commission.*

30 *(7) The name and address of the customers of an electrical*  
31 *corporation or gas corporation who are enrolled in the California*  
32 *Alternative Rates for Energy or CARE program provided by that*  
33 *utility for the sole purpose of low-income ratepayer assistance*  
34 *outreach efforts.*

35 *(8) Information provided in response to a request pursuant to*  
36 *subdivision (a) of Section 530.8 of the Penal Code.*

37 *(e) An electrical corporation or gas corporation shall not offer*  
38 *or provide any incentive, discount, or other inducement with a*  
39 *monetary value, to a customer to obtain the customer's*  
40 *authorization to release information pursuant to this section.*

1 (f) For purposes of this section, an authorization,  
2 acknowledgment, or consent is written or in writing if made by an  
3 “electronic record” that includes a “digital signature,” as those  
4 terms are defined in Section 1633 of the Civil Code.

5 (g) Each violation of this section is grounds for a civil suit by  
6 the aggrieved customer against the electrical corporation or gas  
7 corporation and its employees responsible for the violation.

8 SEC. 6. Section 2751 is added to the Public Utilities Code, to  
9 read:

10 2751. (a) On or before July 1, 2011, each electrical  
11 corporation and gas corporation shall adopt a statement of privacy  
12 and security principles for the personally identifiable information  
13 of its customers which shall be filed with the commission, posted  
14 on the utility’s Internet Web site, made available to a customer  
15 upon request at no charge, and disseminated to customers. The  
16 statement of privacy and security principles shall provide  
17 customers with meaningful, clear, and full notice regarding the  
18 collection, use, dissemination, and maintenance of the personally  
19 identifiable information of its customers.

20 (b) The statement of privacy and security principles shall  
21 incorporate each of the following principles of the Fair Information  
22 Practice Principles adopted by the Federal Trade Commission:

23 (1) Notice/Awareness.

24 (2) Choice/Consent.

25 (3) Access/Participation.

26 (4) Integrity/Security.

27 (5) Enforcement/Redress.

28 (c) An electrical corporation or gas corporation shall ensure  
29 that any person, other than the customer or corporation, including  
30 a contractor, equipment supplier, or software supplier of the utility,  
31 that is permitted to have access to customer information pursuant  
32 to Section 2750, is aware of the utility’s statement of privacy and  
33 security principles and agrees, pursuant to contract, to act in a  
34 manner that is compatible with the statement of privacy and  
35 security principles.

36 SEC. 7. The heading of Chapter 4.5 (commencing with Section  
37 2750) is added to Part 2 of Division 1 of the Public Utilities Code,  
38 to read:

1 CHAPTER 4.5. ELECTRICAL CORPORATIONS AND GAS  
2 CORPORATIONS  
3

4 SEC. 8. The heading of Chapter 4.5 (commencing with Section  
5 2771) of Part 2 of Division 1 of the Public Utilities Code is  
6 repealed.

7 SEC. 9. ~~Chapter 10 (commencing with Section 5600) is added~~  
8 ~~to Division 2 of the Public Utilities Code, to read:~~  
9

10 CHAPTER 10. ~~THIRD-PARTY DEMAND RESPONSE SERVICE~~  
11 ~~PROVIDERS~~  
12

13 5600. ~~(a) For purposes of this chapter, “third-party demand~~  
14 ~~response service provider” means a person or corporation that is~~  
15 ~~not an electrical corporation who collects customer energy usage~~  
16 ~~data or collects that data and provides equipment, software, or~~  
17 ~~services that enable end-use electrical customers to reduce their~~  
18 ~~electricity usage in a given time period, or shift that usage to~~  
19 ~~another time period, in response to a price signal, a financial~~  
20 ~~incentive, an environmental condition, or a reliability signal.~~

21 ~~(b) For purposes of this chapter, an authorization,~~  
22 ~~acknowledgment, or consent is written or in writing if made by an~~  
23 ~~“electronic record” that includes a “digital signature” as those~~  
24 ~~terms are defined in Section 1633 of the Civil Code.~~

25 5601. ~~(a) Energy usage data is the property of the electrical~~  
26 ~~end-use customer, regardless of whether the data is kept by the~~  
27 ~~customer or retained solely by a third-party demand response~~  
28 ~~service provider.~~

29 ~~(b) Individual electrical end-use customer information shall~~  
30 ~~remain confidential. For purposes of this section, “individual~~  
31 ~~electrical end-use customer information” includes both of the~~  
32 ~~following:~~

33 ~~(1) Electrical usage information about an individual, family,~~  
34 ~~household, or residence.~~

35 ~~(2) Billing and credit information about an individual, family,~~  
36 ~~household, or residence.~~

37 ~~(c) (1) Individual electrical end-use customer information in~~  
38 ~~the custody of a third-party demand response service provider shall~~  
39 ~~not be shared, sold, disclosed, or otherwise made accessible to any~~  
40 ~~other person or corporation by a third-party demand response~~

1 ~~service provider unless the customer expressly authorizes, in~~  
2 ~~writing, the release of that information to that person or corporation~~  
3 ~~and that person or corporation acknowledges, in writing, that the~~  
4 ~~information is confidential and shall not be shared, sold, disclosed,~~  
5 ~~made accessible, or utilized by any other person or corporation~~  
6 ~~without the express written consent of the customer.~~

7 ~~(2) A written authorization by an electrical end-use customer~~  
8 ~~for the release of confidential information shall automatically~~  
9 ~~terminate three years from the date of the written authorization,~~  
10 ~~and any renewal shall be in writing.~~

11 ~~(3) No third-party demand response service provider shall offer~~  
12 ~~or provide any incentive, discount, or other inducement with a~~  
13 ~~monetary value, to a customer to obtain the customer's~~  
14 ~~authorization to release information pursuant to this subdivision.~~

15 ~~(d) (1) Each third-party demand response service provider,~~  
16 ~~before providing demand response service on customer residences,~~  
17 ~~shall adopt a statement of privacy and security principles for smart~~  
18 ~~meter systems. The statement of principles shall include the~~  
19 ~~following elements:~~

20 ~~(A) A customer has a right to transparency in information~~  
21 ~~gathering and use. The third-party demand response service~~  
22 ~~provider shall provide customers with meaningful, clear, and full~~  
23 ~~notice regarding the collection, use, dissemination, and~~  
24 ~~maintenance of individual customer information gathered as a~~  
25 ~~result of the demand response services.~~

26 ~~(B) A customer has a right to participate in what and how~~  
27 ~~information about the customer is collected and used. The~~  
28 ~~third-party demand response service provider shall employ a~~  
29 ~~process when using individual customer information gathered as~~  
30 ~~a result of providing demand response services that, seeks the~~  
31 ~~customer's consent for the collection, use, dissemination, and~~  
32 ~~maintenance of the information. The third-party demand response~~  
33 ~~service provider shall provide mechanisms for customers to access,~~  
34 ~~correct, and seek redress regarding their individual customer~~  
35 ~~information gathered as a result of providing demand response~~  
36 ~~services.~~

37 ~~(C) A customer has a right to know the reason information is~~  
38 ~~being gathered. The third-party demand response service provider~~  
39 ~~shall articulate and communicate to the customer the purposes for~~

1 which individual customer information is being gathered as a result  
2 of providing demand response services.

3 ~~(D) Maintenance of information shall be minimized. The~~  
4 ~~third-party demand response service provider shall collect or retain~~  
5 ~~only that individual customer information that is directly relevant~~  
6 ~~and necessary to accomplish a purpose specified in subparagraph~~  
7 ~~(C). Individual customer information shall only be retained for as~~  
8 ~~long as necessary to fulfill the specified purpose.~~

9 ~~(E) Information shall be used only for the purposes for which~~  
10 ~~it was gathered. Individual customer information shall be used~~  
11 ~~solely for the purposes for which it was collected and may be~~  
12 ~~shared only for purposes that are compatible with the purposes for~~  
13 ~~which it was gathered.~~

14 ~~(F) The third-party demand response service provider shall~~  
15 ~~maintain the quality and integrity of information. The third-party~~  
16 ~~demand response service provider, to the extent practicable, shall~~  
17 ~~ensure that all individual customer information is accurate, relevant,~~  
18 ~~timely, and complete. The third-party demand response service~~  
19 ~~provider shall correct erroneous information that is challenged by~~  
20 ~~the consumer.~~

21 ~~(G) The third-party demand response service provider shall~~  
22 ~~maintain the security of the information gathering system. The~~  
23 ~~third-party demand response service provider shall protect~~  
24 ~~individual customer information through appropriate security~~  
25 ~~safeguards against risks of loss, unauthorized access or use,~~  
26 ~~destruction, modification, or unintended or inappropriate~~  
27 ~~disclosure, and the demand response technology employed by the~~  
28 ~~third-party demand response service provider shall be capable of~~  
29 ~~implementing these security safeguards.~~

30 ~~(H) (1) The third-party demand response service provider shall~~  
31 ~~undertake reasonable auditing to verify compliance with the~~  
32 ~~third-party demand response service provider's statement of~~  
33 ~~principles. The third-party demand response service provider shall~~  
34 ~~be responsible for ensuring compliance with its statement of~~  
35 ~~privacy and security principles for the demand response~~  
36 ~~technologies utilized by the third-party demand response service~~  
37 ~~provider and, to that end, shall undertake appropriate training of~~  
38 ~~its employees and contractors and audit the individual customer~~  
39 ~~information being gathered and maintained and the dissemination~~  
40 ~~of that information.~~

~~(2) After adopting privacy and security principles and before commencing to provide demand response service on customer residences, the third-party demand response service provider shall adopt a work plan for implementation of the statement of principles. Information in the work plan that might be detrimental to the security of the demand response technology utilized by the third-party demand response service provider shall be handled in a manner that preserves the confidentiality of the information.~~

~~(3) Upon adoption of the statement of privacy, security principles, and the work plan, the third-party demand response service provider shall make the statement of principles and the work plan available on the third-party demand response service provider's Internet Web site or supply it to customers in writing or as an electronic record, as defined in Section 1633 of the Civil Code. Information that might be detrimental to the security of the demand response technology utilized by the third-party demand response service provider shall be omitted from the information made available on the Internet Web site or directly supplied to customers. The third-party demand response service provider shall provide a mechanism for customers to make inquiries about, or comment upon, the statement of principles and work plan.~~

~~(4) A third-party demand response service provider shall ensure that any person, other than the customer, or corporation that is permitted to have access to the demand response technology utilized by the third-party demand response service provider, including a contractor, equipment supplier, or software supplier of the third-party demand response service provider, is aware of the third-party demand response service provider's statement of privacy, security principles, and the work plan, and agrees to follow the requirements of the work plan and act in a manner that is compatible with the statement of principles.~~

~~(5) A third-party demand response service provider shall promptly investigate and take corrective action to prevent any violation of the work plan by any employee of the third-party demand response service provider or any person or corporation that is permitted to have access to the demand response technology utilized by the third-party demand response service provider.~~

~~(e) The commission may adopt rules to ensure the privacy of electrical end-use customer information and may adopt other rules~~

1 ~~that the commission determines are necessary or useful to~~  
2 ~~implement the requirements of this chapter.~~

3 ~~(f) This section does not limit the ability of the electrical end-use~~  
4 ~~customer to directly and voluntarily provide confidential~~  
5 ~~information to any person or corporation.~~

6 ~~(g) This section does not limit the authority of the commission~~  
7 ~~to adopt rules authorizing the sharing of information between a~~  
8 ~~third-party demand response service provider and an electrical~~  
9 ~~corporation when this sharing is in the interest of the electrical~~  
10 ~~end-use customer, provided the requirements of this section are~~  
11 ~~applicable to any information provided to the third-party demand~~  
12 ~~response service provider and the requirements of Section 2750~~  
13 ~~are applicable to any information provided to the electrical~~  
14 ~~corporation.~~

15 ~~5602. The commission may exercise its authority pursuant to~~  
16 ~~Sections 2111 and 2113 to enforce the requirements of this chapter~~  
17 ~~or any rule adopted by the commission.~~

18 ~~SEC. 10.~~

19 *SEC. 9.* Section 8364.5 is added to the Public Utilities Code,  
20 to read:

21 8364.5. (a) The commission shall ensure that each smart grid  
22 deployment plan *authorized by the commission after January 1,*  
23 *2012,* includes testing and technology standards.

24 (b) Testing standards shall include all of the following:

25 (1) A requirement that the smart metering technology have a  
26 comprehensive security audit. The security auditing plan and the  
27 results of the security audit shall be made publicly available upon  
28 approval by the commission.

29 (2) A requirement that the manufacturer disclose whether it  
30 created a cryptographic protocol for data encryption and specify  
31 the protocol used.

32 (3) A requirement that the manufacturer submit security audit  
33 results as part of a direct access meter project self-certification  
34 program.

35 (c) Technology standards shall do both of the following:

36 (1) Ensure that the particular smart metering technology is  
37 compatible with other smart technologies.

38 (2) Ensure that the particular smart metering technology is  
39 compatible with the electrical corporation's *energy usage* data  
40 collection and billing system.

1 (d) The commission shall ensure that each metering technology  
2 works properly in a field test in a real home setting.

3 ~~SEC. 11.~~

4 *SEC. 10.* No reimbursement is required by this act pursuant to  
5 Section 6 of Article XIII B of the California Constitution because  
6 the only costs that may be incurred by a local agency or school  
7 district will be incurred because this act creates a new crime or  
8 infraction, eliminates a crime or infraction, or changes the penalty  
9 for a crime or infraction, within the meaning of Section 17556 of  
10 the Government Code, or changes the definition of a crime within  
11 the meaning of Section 6 of Article XIII B of the California  
12 Constitution.